

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF MISSISSIPPI**

**IN RE: Francisco Gutierrez**

**CHAPTER 7**

**DEBTOR (S)**

**CASE NO.: 13-11774**

**MOTION TO AVOID NONPOSSESSORY,  
NONPURCHASE MONEY SECURITY INTEREST**

COME(S) NOW, the above named Debtor(s), by and through his/her/their attorney of record, Kevin F. O'Brien, and files this Motion to Avoid Nonpossessory, Nonpurchase Money Security Interest, and in support of said Motion would show as follow:

1. That Debtor(s) has/ have filed a voluntary petition for relief under Chapter 7 of Title 11 of the United States Code.
2. That Debtor(s) owe(s) approximately \$4,104.00 to Republic Finance, 576 Goodman Rd. E, Southaven, MS 38671. As security for the loan, the creditor listed above and insisted upon, and Debtor(s) executed a note and security agreement granting said Creditor a security interest in and on the Debtor(')s(') property exempted pursuant to § 85-3-1 of the Mississippi Code Ann.
3. That the money borrowed from the Creditor does not represent any part of a purchase money security lien for any of the articles covered in the security agreement executed by the Debtor(s).
4. That the existence of Creditors lien on Debtor(')s(') property impairs exemptions to which and the Debtor(s) would be entitled under § 85-3-1 of the Mississippi Code Ann., 11 U.S.C. 522(f) and Owen vs. Owen 111 S. Ct. 1833 (1991).

WHEREFORE, Debtor(s) Pray(s) for an Order avoiding the security interest in the property pursuant to 11 U.S.C. 522(f) and for such additional or alternative relief as may be just and proper.

Dated: May 9, 2013

/s/Kevin F. O'Brien

**Kevin F. O'Brien, #10731  
1630 Goodman Road East, Suite 5  
Southaven, MS 38671  
(662) 349-3339**

**Certificate of Service**

I, Kevin F. O'Brien, do hereby certify that I have on this 9<sup>th</sup> day of May 2013, mailed, postage prepaid, first-class, U.S. Mail and/or electronically delivered a true and correct copy of the above and foregoing Motion to Avoid to the following parties at the addresses listed below:

Alex B. Gates  
[Vclark1@bellsouth.net](mailto:Vclark1@bellsouth.net)

U.S. Trustee  
[USTPRegion05.AB.ECF@usdoj.gov](mailto:USTPRegion05.AB.ECF@usdoj.gov)

Republic Finance  
576 Goodman Rd. E  
Southaven, MS 38671

Dated: May 9, 2013

/s/Kevin F. O'Brien  
**Kevin F. O'Brien, #10731**  
**1630 Goodman Road East, Suite 5**  
**Southaven, MS 38671**  
**(662) 349-3339**